

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

CARPET LINOLEUM AND SOFT TILE) CIVIL NO. 15-00372 DKW-RLP
LOCAL UNION 1926 TRUST FUNDS,)
ET AL.,) FINDINGS AND RECOMMENDATION TO
) DISMISS DEFENDANT LAYTON
Plaintiffs,) CONSTRUCTION CO., INC.'S
) CROSS-CLAIM AGAINST DEFENDANT
vs.) IGD HOSPITALITY, INC.
)
IGD HOSPITALITY, INC., ET)
AL.,)
)
Defendants.)
)

FINDINGS AND RECOMMENDATION TO DISMISS DEFENDANT
LAYTON CONSTRUCTION CO., INC.'S CROSS-CLAIM
AGAINST DEFENDANT IGD HOSPITALITY, INC.¹

On November 10, 2015, Defendant Layton Construction Co., Inc. ("Layton") filed a Cross-Claim against Defendant IGD Hospitality, Inc. ECF No. 13. Although Defendant IGD Hospitality, Inc. was served with Defendant Layton's Cross-Claim on December 3, 2015, see ECF No. 14, Defendant IGD Hospitality, Inc. did not file a response. Plaintiffs and Defendant Layton entered into a Stipulation for Dismissal of all claims against Defendant Layton on February 25, 2016. See ECF No. 26. That Stipulation expressly stated that Defendant Layton's Cross-Claim

¹ Within fourteen days after a party is served with a copy of the Findings and Recommendation, that party may, pursuant to 28 U.S.C. § 636(b)(1), file written objections in the United States District Court. A party must file any objections within the fourteen-day period allowed if that party wants to have appellate review of the Findings and Recommendation. If no objections are filed, no appellate review will be allowed.

against Defendant IGD Hospitality, Inc. remained in this action.
Id.

On March 16, 2016, this Court issued an Order noting that no action had been taken on Defendant Layton's Cross-Claim against Defendant IGD Hospitality, Inc. and directing Defendant Layton to file the appropriate request for default or to submit the appropriate dismissal documents no later than March 30, 2016. See ECF No. 27. Because Defendant Layton has failed to file a request for entry of default or to submit the appropriate dismissal documents, the Court FINDS and RECOMMENDS that Defendant Layton's Cross-Claim against Defendant IGD Hospitality, Inc. be dismissed pursuant to Federal Rule of Civil Procedure 41(c).

IT IS SO FOUND AND RECOMMENDED.

DATED AT HONOLULU, HAWAII, APRIL 4, 2016.




Richard L. Puglisi
United States Magistrate Judge

CARPET LINOLEUM AND SOFT TILE LOCAL UNION 1926 TRUST FUNDS, ET AL., V. IGD HOSPITALITY, INC., ET AL.; CIVIL NO. 15-00372 DKW- RLP; FINDINGS AND RECOMMENDATION TO DISMISS DEFENDANT LAYTON CONSTRUCTION CO., INC.'S CROSS-CLAIM AGAINST DEFENDANT IGD HOSPITALITY, INC.